

By Senator Farmer

34-00621B-17

20171218__

1 A bill to be entitled
2 An act relating to property repair; amending s.
3 468.8411, F.S.; defining the terms "professional water
4 damage restorer" and "water damage restoration";
5 amending s. 468.8414, F.S.; requiring the Department
6 of Business and Professional Regulation to license
7 applicants who are qualified to practice water damage
8 restoration; specifying qualifications for licensure;
9 providing applicability to professional water damage
10 restorers of certain prohibitions and penalties;
11 amending s. 627.422, F.S.; prohibiting personal lines
12 residential or commercial residential property
13 insurance policies from prohibiting the post-loss
14 assignment of benefits; providing that an assignment
15 agreement is not valid unless it meets specified
16 requirements; providing requirements and limitations
17 for assignees of post-loss benefits; requiring
18 insurers that have a preferred vendor or similar
19 program to consider certain certified persons to be
20 preferred vendors; requiring insurers to provide
21 specified contact information on their websites and in
22 policies; requiring assignees to deliver an executed
23 assignment agreement to insurers within a specified
24 timeframe; requiring insurers to make any initial
25 inspections of the covered property within a specified
26 time after receiving such agreement; requiring
27 insureds or assignees to provide a certain
28 prelitigation notice to insurers by a specified
29 timeframe; amending s. 627.7011, F.S.; prohibiting

34-00621B-17

20171218__

30 specified acts of insurers relating to homeowners'
31 insurance policies under certain circumstances;
32 providing an effective date.
33

34 Be It Enacted by the Legislature of the State of Florida:
35

36 Section 1. Subsections (7) and (8) are added to section
37 468.8411, Florida Statutes, to read:

38 468.8411 Definitions.—As used in this part, the term:

39 (7) "Professional water damage restorer" means any person
40 who performs water damage restoration.

41 (8) "Water damage restoration" means water removal,
42 demolition, dehumidification, or other treatment related to
43 water damage or water-contaminated matter greater than 10 square
44 feet.

45 Section 2. Subsection (1) of section 468.8414, Florida
46 Statutes, is amended, present subsection (4) of that section is
47 redesignated as subsection (6), and a new subsection (4) and
48 subsection (5) are added to that section, to read:

49 468.8414 Licensure.—

50 (1) The department shall license any applicant who the
51 department certifies is qualified to practice mold assessment,
52 ~~or~~ mold remediation, or water damage restoration.

53 (4) The department shall certify for licensure as a
54 professional water damage restorer an applicant who:

55 (a) Is of good moral character;

56 (b) Has the insurance coverage required under s. 468.8421;

57 and

58 (c) Satisfies the Institute of Inspection, Cleaning, and

34-00621B-17

20171218__

59 Restoration Certification S500 standards.

60 (5) The prohibitions and penalties described in s. 468.8419
61 apply to a professional water damage restorer.

62 Section 3. Section 627.422, Florida Statutes, is amended to
63 read:

64 627.422 Assignment of policies or post-loss benefits.—A
65 policy or its post-loss benefits may be assignable, or not
66 assignable, as provided by the ~~its~~ terms of the policy and the
67 requirements of this section.

68 (1) LIFE OR HEALTH INSURANCE POLICIES.—Subject to its terms
69 relating to assignability, any life or health insurance policy
70 under the terms of which the beneficiary may be changed upon the
71 sole request of the policyowner may be assigned either by pledge
72 or transfer of title, by an assignment executed by the
73 policyowner alone and delivered to the insurer, whether or not
74 the pledgee or assignee is the insurer. Any such assignment
75 shall entitle the insurer to deal with the assignee as the owner
76 or pledgee of the policy in accordance with the terms of the
77 assignment, until the insurer has received at its home office
78 written notice of termination of the assignment or pledge or
79 written notice by or on behalf of some other person claiming
80 some interest in the policy in conflict with the assignment.

81 (2) POST-LOSS BENEFITS UNDER CERTAIN PROPERTY INSURANCE
82 POLICIES.—A personal lines residential property insurance policy
83 or a commercial residential property insurance policy may not
84 prohibit the post-loss assignment of benefits.

85 (a) An agreement to assign post-loss benefits under this
86 subsection is not valid unless the agreement:

87 1. Is in writing between the policyholder and assignee and

34-00621B-17

20171218__

88 is delivered to the insurer as provided in paragraph (c);

89 2. Is limited to claims for work performed by the assignee
90 for damage to dwellings or structures covered under the policy;

91 3. Allows the policyholder to unilaterally rescind the
92 assignment of post-loss benefits to a vendor if work has not yet
93 begun or if the assignee fails to meet the standards required
94 for such work; provided, however, that the policyholder or
95 insurer may be responsible for payment for work performed; and

96 4. Contains an accurate and up-to-date statement of the
97 scope of work to be performed.

98 (b) An assignee of post-loss benefits under this
99 subsection:

100 1. Must provide the policyholder with accurate and up-to-
101 date revised statements of the scope of work to be performed as
102 supplemental or additional repairs are required;

103 2. Must guarantee to the policyholder that the work
104 performed conforms to current and accepted industry standards,
105 including, but not limited to, the standards under this part;

106 3. May not charge the policyholder more than the applicable
107 deductible contained in the policy unless the policyholder opts
108 for additional work at the policyholder's own expense;

109 4. May not charge the policyholder directly, except for
110 additional work not covered under the policy;

111 5. May not pay referral fees totaling more than \$750 in
112 connection with the assignment; and

113 6. For water-damage claims:

114 a. Must be licensed in good standing under part XVI of
115 chapter 468 or chapter 489 to perform any work requiring such a
116 license.

34-00621B-17

20171218__

117 b. Must be certified in good standing with the Institute of
118 Inspection Cleaning and Restoration Certification to perform any
119 work covered under the appropriate certification.

120 c. Must verify that any vendor it contracts with to perform
121 work meets the applicable license and certification requirements
122 in sub-subparagraphs a. and b.

123
124 For purposes of sub-subparagraphs b. and c., if an insurer has a
125 preferred vendor or similar program, the insurer must consider a
126 person certified by the Institute of Inspection Cleaning and
127 Restoration Certification to be a preferred vendor.

128 (c) An insurer shall provide on its website and in the
129 policy its contact information for receiving the agreement that
130 meets the requirements of paragraph (a) and which must include
131 at least a dedicated facsimile number. After executing the
132 assignment agreement, the assignee must deliver the agreement to
133 the insurer within the later of:

134 1. If a state of emergency was declared under s. 252.36 for
135 a hurricane or other natural disaster and the property covered
136 under the policy was damaged as a result of the hurricane or
137 natural disaster, 7 days after the state of emergency is
138 terminated; or

139 2. Seven business days after execution of the agreement.

140 (d) Notwithstanding s. 627.70131, upon receiving the
141 agreement in paragraph (a), the insurer must make any initial
142 inspections of the covered property within the later of:

143 1. If a state of emergency was declared under s. 252.36 for
144 a hurricane or other natural disaster and the property covered
145 under the policy was damaged as a result of the hurricane or

34-00621B-17

20171218__

146 natural disaster, 7 days after the state of emergency is
147 terminated; or

148 2. Seven business days after receiving the agreement.

149 (e) No later than 7 days before an insured or assignee
150 initiates litigation against an insurer relating to a denied or
151 limited claim, the insured or assignee must provide the insurer
152 with notice of intent to initiate such litigation.

153 Section 4. Paragraph (a) of subsection (3) of section
154 627.7011, Florida Statutes, is amended to read:

155 627.7011 Homeowners' policies; offer of replacement cost
156 coverage and law and ordinance coverage.—

157 (3) In the event of a loss for which a dwelling or personal
158 property is insured on the basis of replacement costs:

159 (a) For a dwelling:7

160 1. The insurer must initially pay at least the actual cash
161 value of the insured loss, less any applicable deductible. The
162 insurer shall pay any remaining amounts necessary to perform
163 such repairs as work is performed and expenses are incurred. If
164 a total loss of a dwelling occurs, the insurer shall pay the
165 replacement cost coverage without reservation or holdback of any
166 depreciation in value, pursuant to s. 627.702.

167 2. The insurer may not require that a particular vendor
168 make repairs to such dwelling.

169 3. The insurer may not, unless expressly requested by the
170 insured, recommend or suggest a particular vendor for repairs to
171 be made to such dwelling.

172 Section 5. This act shall take effect July 1, 2017.